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SIPDIS

DHS FOR IAO, BORDER PATROL  
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SUBJECT: EU AGREES ON MUTUAL RECOGNITION OF  
CONFISCATION ORDERS

REF: (A) USEU BRUSSELS 1450; (B) USEU BRUSSELS 1338;

(C) USEU BRUSSELS 753 ; (D) USEU BRUSSELS 1911

SUMMARY

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[11.](#) EU Ministers for Justice and Home Affairs (JHA) on April 29-30 agreed on the application of the principle of mutual recognition to confiscation orders, a follow-up to the March 26 European Council Declaration on Combating Terrorism. The Commission will bring forward by June further proposals for the exchange of information for law enforcement purposes, including terrorism and the exchange of passenger data for border and aviation security. The Council also requested proposals on the exchange of information on lost and stolen passports in keeping with a requirement in the March Council Declaration on Combating Terrorism. Ministers failed on a new Director for EUROPOL starting in June 2004. END SUMMARY.

MUTUAL RECOGNITION OF CONFISCATION ORDERS

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[12.](#) The JHA Council meeting in Luxembourg on April 29 reached a "general approach" (subject to parliamentary scrutiny reservations) to the text of a Framework Decision on the application of the principle of mutual recognition to confiscation orders. Further technical work is required on an annex to the draft. Under this new piece of legislation, a Danish initiative, a Member State is obliged to recognize and execute in its territory confiscation orders issued by a court competent in criminal matters of another Member State. The stated goal, according to EU officials, is "to ensure that all Member States have effective rules governing the confiscation of proceeds from crime, inter alia in relation to the onus of proof regarding the source of assets held by a person convicted of an offence related to organized crime."

FOLLOW-UP TO DECLARATION ON COMBATING TERRORISM

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[13.](#) With CT Coordinator Gijs de Vries in attendance, the Council briefly noted achievements so far regarding the targets set by the European Council Declaration under its March 26 Declaration on Combating Terrorism, in particular:

--The above agreement on confiscation orders, which should enable the Council to meet its June 2004 deadline;

--Agreement on the Council Regulation on the introduction of new functions in the Schengen Information System and the conclusions on the location and management of the second generation SIS (SIS II - ref D);

--Formal adoption of the Victims of Crime Directive (below) and of the Directive on the obligation of carriers to communicate passenger data (ref D);

--Progress in implementing instruments such as the European arrest warrant (currently implemented in 12 Member States) and joint investigation teams.

[14.](#) Irish Justice Minister/Council chair Mc Dowell told a press conference further progress would come shortly with the publication of a draft Framework Decision on the retention of communications traffic data sponsored by Ireland, the UK, France and Sweden. He described the tabling of the measure together with Commission proposals for the exchange of information on terrorist offences as a speedy response to the new legislative proposals. Mc Dowell noted that the Commission would also bring forward by June further proposals for the exchange

of information for law enforcement purposes, including terrorism and the exchange of information of passenger data for border and aviation security. The Council also requested proposals on the exchange of information on lost and stolen passports in keeping with the requirement in the European Council Declaration. The Irish Presidency will set out, in a new Action Plan, a detailed implementation strategy in relation to outstanding matters related to the CT Declaration.

#### NEW EUROPOL DIRECTOR

15. Ministers failed to reach the necessary consensus on who will be the Director of EUROPOL starting in June. They will have to return to the issue in June. There are three candidates in the running: the German incumbent Jurgen Storbeck, Frenchman Jacques Franquet and Italian Emmanuelle Marotta.

#### OTHER ITEMS

16. Among other issues, the Council also:

--Formally adopted a Directive relating to compensation to crime victims that sets up a system of cooperation to facilitate access to compensation for victims in cross-border situations. The competent authority of the Member State where the crime was committed shall pay compensation. The Directive provides that Member States will have relevant national provisions in place by July 1, 2005 to ensure compensation to victims of violent intentional crime.

--Held a discussion with Michael O'Kennedy, President of EUROJUST (EU Prosecutors' Office), based on his agency's annual report for 2003. There was a 50 percent increase in EUROJUST case referrals last year. The conclusions task EUROJUST to examine the scope for further measures to improve its capacity to contribute to the fight against terrorism.

#### FOSTER